

May 19, 2004

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404  
Seattle, Washington 98104  
Telephone (206) 296-4660  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File Nos. **L03RE046** and  
**L01P0011A**  
Proposed Ordinance No. **2004-0166**

**WHITE MOUNTAIN TRAILS**

Revision to Preliminary Plat Application

Location: Directly South of the Southeast 288<sup>th</sup> Street and  
118<sup>th</sup> Avenue Southeast Intersection

Applicant: **Jeff Potter**  
Curtis Lang Custom Homes Inc.  
22520 Southeast 218<sup>th</sup> Street  
Maple Valley, Washington 98038  
Telephone: (425) 432-3284

King County: Department of Development and Environmental Services, *represented*  
*by*  
**Trishah Bull**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-6758  
Facsimile: (206) 296-6644

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Approve, subject to conditions

Examiner's Decision:

Approved, subject to conditions

**EXAMINER PROCEEDINGS:**

Hearing Opened:

May 18, 2004

Hearing Closed:

May 18, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

**1. General Information:**

Developer:	Jeff Potter Curtis Lang Custom Homes, Inc. 22520 SE 218 <sup>th</sup> Street Maple Valley, WA 98038 425-432-3284
Engineer:	James J. Jaeger Jaeger Engineering 9419 South 204 <sup>th</sup> Place Kent, WA 98031 253-850-0934
STR:	04-21-05
Location:	The site is located directly south of the SE 288 <sup>th</sup> Street and 118 <sup>th</sup> Avenue SE intersection.
Zoning:	R-1
Acreage:	30.75 acres
Number of Lots:	30 lots
Density:	1 unit per acre
Lot Size:	Ranges from approximately 14,000 to 25,000 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	City of Auburn
Water Supply:	City of Auburn
Fire District:	King County District #44
School District:	Auburn School District
Revision Submittal Date:	December 18, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the May 18, 2004 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions. The hearing record for L01P0011 has been incorporated into this proceeding.
3. Curtis Lang Custom Homes, Inc. has a filed an application pursuant to KCC 19A.12.030 to revise the preliminary plat of White Mountain Trails approved on October 11, 2002. The request

is to delete conditions 20A and B within the October 11, 2002 report and decision which were based on requirements for protecting a red-tailed hawk nest as stated in a mitigated determination of non-significance issued on July 26, 2002. A reissued MDNS dated March 5, 2004 removed the hawk nest protection requirement consistent with a recent amendment to Comprehensive Plan Policy E-168 adopted by the King County Council. The requested plat revision does not increase the number of lots or alter their configuration.

#### CONCLUSIONS:

1. The deletion of plat conditions as requested by the Applicant constitutes a substantial change to the preliminary plat approval conferred on White Mountain Trails on October 11, 2002. Accordingly, under KCC 19A.12.030 the revision request constitutes a Type 3 application with a new vesting date.
2. Ordinance 14775 adopted by the King County Council effective October 24, 2003 modified Comprehensive Plan Policy E-168 by deleting habitat for the red-tailed hawk from its list of designated fish and wildlife habitat conservation areas within the Urban Growth Area. The deletion of the red-tailed hawk nest protective area conditions required within the October 11, 2002 report and decision of the hearing examiner is consistent with Comprehensive Plan Policy E-168 as amended. In all other respects, the findings and conclusions contained in the examiner's October 11, 2002 report and decision remain valid and effective.

#### DECISION:

The preliminary plat revision for White Mountain Trails submitted on December 18, 2003 is GRANTED, subject to the conditions contained in the examiner's October 11, 2002 report and decision, except that conditions subparagraphs A and B of condition 20 are deleted and the following additional condition is imposed:

1. If the red-tailed hawks are actively using the nest at the time of construction, the Applicant shall notify the Washington State Department of Fish and Wildlife and comply with any Washington State regulations protecting the red-tailed hawks in effect and applicable to the property.

ORDERED this 19th day of May, 2004.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 19th day of May, 2004, to the following parties and interested persons of record:

Shirley Aird  
City of Auburn Planning Dept.  
25 West Main  
Auburn WA 98001

Ty Amant  
29206 - 112th Ave. SE  
Auburn WA 98092

Mr. & Mrs. Brooks  
29218 - 118th Ave. SE  
Auburn WA 98092

Mildred Carlaw  
28604 - 118th Ave. SE

Jon & Dixie Carlson  
28605 - 118th Ave. SE

Ben & Joyce Carpenter  
11656 SE 288th St.

Kent WA 98031-8728

Kent WA 98031

Kent WA 98031

George W. Drysdale  
Dryco Surveying  
12714 Valley Ave. E.  
Sumner WA 98390

Len Elliott  
11825 SE 288th St.  
Kent WA 98031

Kay Everson  
30228 - 118th Ave. SE  
Auburn WA 98092

Steve Fiksdal  
John L. Scott Real Estate  
3380 - 146th Pl. SE, #450  
Bellevue WA 98007

Teresa Heirer  
29513 - 118th Ave. SE  
Auburn WA 98092

Bruce Homfeldt  
11608 SE 288th St.  
Kent WA 98031

E.S. Howe  
29312 - 118th Ave. SE  
Auburn WA 98092

James J. Jaeger  
Jaeger Engineering  
9419 S. 204th Pl.  
Kent WA 98031

Capt. James E. Kopp  
11854 SE 288th St.  
Kent WA 98030

Gerald Lehr  
11867 SE 286th St.  
Kent WA 98031

Jerry Marcy  
P.O. Box 575  
Seattle WA 98111

Linda Matlock  
WA State Ecol. Dept./WQSW Unit  
PO Box 47696  
Olympia WA 98504-7696

John McHugh  
12014 SE 288th  
Kent WA 98031

Eleanor Moon  
KC Executive Horse Council  
12230 NE 61st  
Kirkland WA 98033

Ron & Carole Novak  
29226 - 118th Ave. SE  
Auburn WA 98092

S. Robert & Eric Pfaff  
29204 - 124th Ave. SE  
Auburn WA 98092

Jeff Potter  
Curtis Lang Custom Homes  
22520 SE 218th St.  
Maple Valley WA 98038

Phillip & Luana Richards  
P.O. Box 417  
Auburn WA 98071

Seattle KC Health Dept.  
E. Dist. Environ. Health  
14350 SE Eastgate Way  
Bellevue WA 98007

Robert & Virginia Stead  
11806 SE 288th  
Kent WA 98031

J. James White  
White Mountain Trails, LLC  
1127 Warm Springs Ave.  
Boise ID 83712

Don Wickstrom  
City of Kent Public Works  
220 - 4th Avenue South  
Kent WA 98032-5895

Greg Borba  
DDES/LUSD  
MS OAK-DE-0100

Trishah Bull  
DDES/CPLN  
Current Planning Section  
MS OAK-DE-0100

Kim Claussen  
DDES/LUSD  
Current Planning  
MS OAK-DE-0100

Nick Gillen  
Wetland Review  
DDES/SDSS  
MS OAK-DE-0100

Kristen Langley  
DDES/LUSD  
Land Use Traffic  
MS OAK-DE-0100

Carol Rogers  
LUSD/CPLN  
MS OAK-DE-0100

Larry West  
DDES/LUSD  
Geo Review  
MS OAK-DE-0100

Bruce Whittaker  
DDES/LUSD  
Prel. Review Engineer  
MS OAK-DE-0100

## NOTICE OF APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before June 3, 2004.*** If a notice of appeal is filed, the original and six (6) copies of a written appeal

statement specifying the basis for the appeal and argument in support of the appeal must be filed with the

Clerk of the King County Council *on or before June 10, 2004*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MAY 18, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT  
AND ENVIRONMENTAL SERVICES FILE NO. L03RE046/L01P0011.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Trishah Bull representing the Department; and Jeff Potter, representing the Applicant.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES File No. L03RE046/L01P0011
Exhibit No. 2	DDES Preliminary Report dated May 18, 2004
Exhibit No. 3	Letter to Trishah Bull from James Jaeger dated December 17, 2003 – Request For Revision
Exhibit No. 4	Mitigated Determination of Non-Significance dated March 5, 2004 - Reissuance
Exhibit No. 5	Ordinance 14775
Exhibit No. 6	Affidavit of Posting indicating March 16, 2004 as date of posting and March 17, 2004 as the date the affidavit was received by DDES
Exhibit No. 7	Examiners Report and Decision dated October 11, 2002

SLS:gao  
L01P0011A RPT